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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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07/31/2003

Chris D. Chiodo

1729

7590

06/25/2007

Lawrence J. Shurupoff  
16651 Topanga Lane  
Delray Beach, FL 33484

EXAMINER

FETZNER, TIFFANY A

ART UNIT

PAPER NUMBER

2859

MAIL DATE

DELIVERY MODE

06/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/631,226		CHIODO, CHRIS D.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Tiffany A. Fetzner		2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 1-15 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

#### ***Drawings***

1. The drawings are still objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

**A)** In **Figure 3**, component **61** is **shown but not referred to** in applicant's specification.

**B)** In **Figure 9**, component **87** is **shown but not referred to** in applicant's specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. Applicant has not yet submitted a correction to the drawings with respect to the Official draftspersons review of 4/21/2006. The corrections set forth by the Official draftspersons review of 4/21/2006, was previously attached to the April 21<sup>st</sup> 2006 office action still need to be corrected by applicant.

#### **Claim Objections**

3. **Claims 17 and 18** are objected to because of the following informalities:

**A)** With respect to **Claims 17 and 18**, these claims are objected to because applicant has removed the antecedence for the "sliding" interconnection from claim 16, by the claim amendments made on October 12<sup>th</sup> 2006. Appropriate correction is required.

**Claim Rejections - 35 USC § 102**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 16-20** are rejected under **35 U.S.C. 102(b)** as being anticipated by **Mastandrea, Jr. et al.**, US patent 5,783,943 issued July 21<sup>st</sup> 1998.

6. With respect to **Amended Claim 16**, **Mastandrea, Jr. et al.**, shows and teaches "A positioning system for positioning a specimen in a predetermined position within a bore of an MRI imaging machine", [See abstract] and through a bore of a gradient coil located in the bore of the MRI imaging machine, "said positioning system comprising: a first pair of support members" (i.e. guide key member 48 with track 42; or flange 43a and 43b of patient support beam 38) which are each, "insertable within said bore of said MRI imaging machine and through the bore of the gradient coil;" as per figure 1 and col. 2 line 18 through col. 8 line 57.] "a specimen positioning assembly" (i.e. insertable gradient coil assembly 54) "comprising a specimen retention device" (i.e. insertable gradient coil assembly 56, and trolley cage 58) "and a second pair of support members;" (i.e. key guide members 91, which connect to track 42; or latching mechanism 92 which connects to flanges 43A and B) insertable within said first pair of support members; (i.e. guide key member 48 with track 42; or flange 43a and 43b of patient support beam 38) "and an sliding interconnection provided between said first and second pairs of support members, said interconnection locating said specimen positioning assembly within said bore of said imaging machine and within the bore of said coil". [See col. 4 lines 1-47 through col. 5 lines 12-37; col. 7 line 666 through col. 8 line 6; and in general col. 2 line 18 through col. 8 line 57.]

7. With respect to **Claim 17**, **Mastandrea, Jr. et al.**, shows and teaches that "said **sliding? {See antecedence problem above}** interconnection comprises a pair of rods" (i.e. there are two components 91) "and a pair of grooved rails" (i.e. track 48 and component 42 define a grooved rail, and because two separate components identified

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as 91, rely simultaneously on the combination of grooved rail 48 with track 42, there are two corresponding but distinct grooved rails present in the **Mastandrea, Jr. et al.**, configuration. The same reasons for rejection, that apply to **claim 16** also apply to **claim 17** and need not be reiterated.

8. With respect to **Claim 18, Mastandrea, Jr. et al.**, shows and teaches that "said *sliding? {See antecedence problem above}* interconnection comprises a self-centering interconnection" because when components 92 and 43a / 43b only interlock when the gradient coil assembly is at the isocenter of the imaging bore; alternatively components 91 which interconnects with key member 48 on track member 42 also centers the gradient coil assembly along the z axis, so the device configuration is intrinsically achieves a coarse self-centering alignment. [See abstract, figures 1-6 col. 2 line 18 through col. 8 line 57.] The same reasons for rejection, that apply to **claim 16** also apply to **claim 18** and need not be reiterated.

9. With respect to **Amended Claim 19, Mastandrea, Jr. et al.**, shows and teaches "a mounting member" (i.e. patient beam 38) "fixed to said **MRI** imaging machine", "and wherein said first pair of support members" (track or groove 42, and key member 48 of the patient couch 44) "is connected to said mounting member", [See col. 3 line 51 through col. 4 line 27] "and wherein said specimen positioning assembly" (i.e. insertable gradient coil assembly 54) "is freely insertable into" / onto "said mounting member and freely removable therefrom". [See abstract; col. 2 line 18 through col. 8 line 57; figures 1 through 6]. The same reasons for rejection, that apply to **claim 16** also apply to **claim 19** and need not be reiterated.

10. With respect to **Amended Claim 20, Mastandrea, Jr. et al.**, shows and teaches that "said specimen positioning assembly comprises an engagement member" (i.e. trolley cage 58) "for limiting insertion of said specimen positioning assembly" (i.e. insertable gradient coil 56) "into said **MRI** imaging machine." [See abstract, figures 1 through 6; and the text of col. 2 line 18 through col. 8 line 57, as this is the main inventive concept of the **Mastandrea, Jr. et al.**, invention. The same reasons for rejection, which apply to **claim 16** also apply to **claim 20** and need not be reiterated.

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11. **Claims 16-20** are rejected under **35 U.S.C. 102(b)** as being anticipated by **Hussman** US patent 5,590,655 issued January 7<sup>th</sup> 1997.

12. With respect to **Amended Claim 16**, **Hussman** shows and teaches "A positioning system" (i.e. a localization/positioning system) "for positioning a specimen" (i.e. a human breast) "in a predetermined position within a bore of an MRI imaging machine", [See abstract, figures 2, 5a, 9, 10, 11, 29a, 29b, 30, 31 and 37] and through a bore of a gradient coil located in the bore of the MRI imaging machine, {see figure 37, col. 3 lines 15-60, col. 23 line 3 through col. 25 line 6} "said positioning system comprising: a first pair of support members" (i.e. components 242 or 289 of figures 10 and 11 respectively) which are each, "insertable within said bore of said MRI imaging machine and through the bore of the gradient coil;" as per figure 37 when the positioning assembly and the device are brought into the MRI magnet.) "a specimen positioning assembly" (i.e. insertable localizer assembly 240 or 280 of figures 10 and 11) "comprising a specimen retention device" (i.e. housing 242 and inclined surface 244) "and a second pair of support members (i.e. the pair of localizer components 40 which holds and retain a specimens breasts) and which are insertable within said first pair of support members;" (i.e. housing 242 and inclined surface 244 of figure 10) "and an sliding interconnection provided between said first and second pairs of support members," [See figure 10, col. 13 lines 1-25] "said interconnection locating said specimen positioning assembly within said bore of said imaging machine and within the bore of said coil" (i.e. when the assembly is loaded within the bore of figure 37).

13. With respect to **Claim 17**, **Hussman** shows and teaches that "said *sliding?(i.e. antecedence basis problem)* "interconnection comprises a pair of rods" [See figures 10 and 11] "and a pair of grooved rails" (i.e. See figures 10, 11, 30, and 31] The same reasons for rejection, that apply to **claim 16** also apply to **claim 17** and need not be reiterated.

14. With respect to **Claim 18**, **Hussman** shows and teaches that "said *sliding?(i.e. antecedence basis problem)*" interconnection comprises a self-centering interconnection" because the array block for positioning a specimens breasts is

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"automatically positioned" when the sliding components are automatically received. [See col. 16 lines 4-40, in combination with the figures, and the numerous ways to interconnect and align the patients breast tissue within the insertable positioning array that is also inserted within the bores of the gradient coils and main magnet coils of the MRI apparatus 37 taught throughout the written description of the **Hussman** reference. The same reasons for rejection, that apply to **claim 16** also apply to **claim 18** and need not be reiterated.

15. With respect to **Amended Claim 19**, **Hussman** shows "a mounting member "fixed to said MRI imaging machine" (See figure 37), "and wherein said first pair of support members and wherein said specimen positioning assembly" (i.e. the insertable localizer assemblies of figures 10 and 11, in combination with figure 37) "is freely insertable into" / onto "said mounting member and freely removable therefrom". [See figures 10, 11, 37, and the entire written description for the in depth explanation of the numerous combinations, in which this mounting and insertion of the localizing positioning assembly may occur.] The same reasons for rejection, that apply to **claim 16** also apply to **claim 19** and need not be reiterated.

16. With respect to **Amended Claim 20**, **Hussman** shows and teaches that "said specimen positioning assembly comprises an engagement member" (i.e. component 242 or 289) "for limiting insertion of said specimen positioning assembly into said MRI imaging machine." [See figures 10, 11, 37 and the entire written description for the in depth explanation of the numerous combinations, in which this mounting and insertion of the localizing positioning assembly may occur as this is the main inventive concept of the **Hussman** invention. The same reasons for rejection, that apply to **claim 16** also apply to **claim 20** and need not be reiterated.

#### **Non-elected Claims Withdrawn from consideration**

17. **Claims 1-15 and 21** are withdrawn as being drawn to a non-elected invention.

#### **Conclusion**

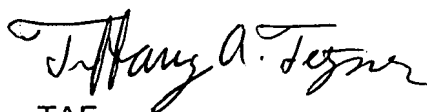
18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tiffany Fetzner whose telephone number is: (571) 272-

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2241. The examiner can normally be reached on Monday-Thursday from 7:00am to 4:30pm., and on alternate Friday's from 7:00am to 3:30pm.

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached at (571) 272-2245. The **only official fax phone number** for the organization where this application or proceeding is assigned is **(571) 273-8300**.

20. Information regarding the status of an application may be obtained from the Patent Application information Retrieval (PAIR) system Status information for published applications may be obtained from either Private PMR or Public PMR. Status information for unpublished applications is available through Private PMR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PMR system contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



TAF

June 20, 2007



Diego Gutierrez  
Supervisory Patent Examiner  
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